

### **REMARKS**

In the non-final Office Action claims 1-30 and rejected.

Applicants herewith submit amended paragraph of the written description to overcome the objections to the drawings, and amend claims 1-3, 9, 12-14, 19 and 20, cancel no claims, and add no new claims.

Applicants assert that the amended paragraphs do not introduce new matter.

Entry and favorable consideration of the amendments and remarks presented herewith is earnestly solicited as well as reconsideration of the finality of the instant Office Action.

Applicants herewith voluntarily amend certain of said pending claims as a matter of convenience and to render them as definite and precise as possible. Applicants specifically reserve the right to antedate all the applied references and unwind the amendments submitted herewith in the event the Examiner does not agree that upon entry of the instant amendment the application is in condition for allowance.

### **Claim Rejections under 35 U.S.C. §102**

**Pending claims 1, 7, 8, 10, 11, 13, 16, 17, 18, 19, and 25 stand rejected as allegedly anticipated by the 059 patent to Duffin (Duffin).**

Applicants respectfully traverse the rejection. Of course, for Duffin to anticipate the claims Duffin must disclose *each and every claim limitation recited*.

In the instant case, Duffin fails to disclosure at least the notion of “at least two different programmable temporal resolution values” for storage of physiologic mechanical data. As such Duffin cannot fairly support the rejection and the rejection should be properly withdrawn.

**Claim Rejections under 35 U.S.C. §103**

**Pending claims 2-4, 9, 12, 20-22, and 26-28 stand rejected as allegedly unpatentable over Duffin in view of the '891 patent to Wateridge et al. (Wateridge).**

Applicants traverse the rejection as failing to reach the minimum threshold of constituting a *prima facie* obviousness rejection. That is, neither Duffin nor Wateridge fails to contemplate various temporal gradations of physiologic *mechanical* data. As such a combination of Duffin and Wateridge would not provide the instantly claimed invention and thus the rejection should be properly withdrawn.

**Claims 5, 6, 23, 24, 29, and 30 stand rejected as allegedly unpatentable over Duffin in view of the '267 patent to Nikolic et al. (Nikolic) and further in view of the '476 patent to Brown (Brown).**

For the reasons stated above, Duffin fails to contemplate the core gist of the presently claimed invention and as such serves as a poor primary reference that again fails to support the required *prima facie* threshold that the Examiner must bear. Without more Applicants are entitled to having the claimed invention issue as U.S. Letters Patent. A notice to that effect is earnestly solicited.

**Conclusion**

Applicants submit that the claimed invention is in condition for allowance and respectfully solicits a notice to that effect in due course so the invention may timely pass to issuance as U.S. Letters Patent.

The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

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